



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,973	02/08/2005	Crale Reece	A-9410	1563
20741 7590 01/10/2007 HOFFMAN WASSON & GITLER, P.C CRYSTAL CENTER 2, SUITE 522 2461 SOUTH CLARK STREET ARLINGTON, VA 22202-3843			EXAMINER MCKANE, ELIZABETH L	
			ART UNIT	PAPER NUMBER
			1744	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/10/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/523,973

Applicant(s)

REECE, CRALE

Examiner

Leigh McKane

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 11-18 and 20 is/are rejected.
- 7) ☒ Claim(s) 10 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 020805.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

Claim Objections

1. Claims 14-16 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Specifically, claims 14-16 recite method steps wherein a particular element “is placed in the enclosure”. A method step does not further limit the structure of an apparatus claim.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “is associated with a venture” is vague and indefinite as it cannot be determined if this terminology implies a structural connection between the outlet and the venturi.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

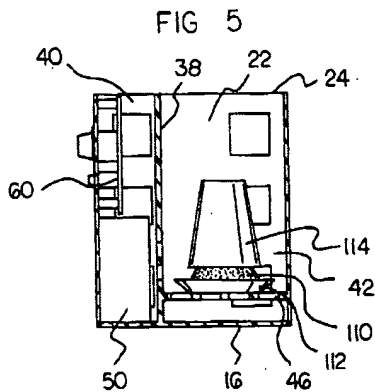
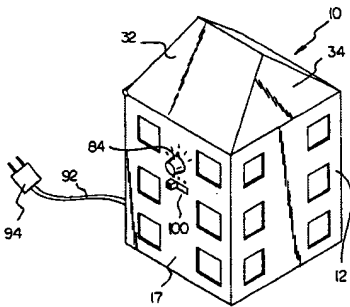
5. Claims 1, 4, 7, 9, 11-13, 16, 17, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Harper (US 5,567,361).

Harper teaches an apparatus having an enclosure **42** adapted to contain a vaporizing device (deodorant, fragrance) **114**, an inlet and outlet (see openings Figure 1) to allow air to pass

in and out of the enclosure, a fan **50** to pass the air from the inlet through the enclosure and through the outlet. The enclosure is further provided with a door **30**. See Figure 2. The fan **50** is located in a second enclosure **40** separate from the enclosure **42** and separated therefrom by a partition wall **38** containing an opening **44**. The intake area of the fan is shown to

be adjacent the inlet of the enclosure. See Figure 5. Furthermore, as shown in Figure 6, a power supply enters the wall of the apparatus to provide electrical power to the timer and fan. As to the

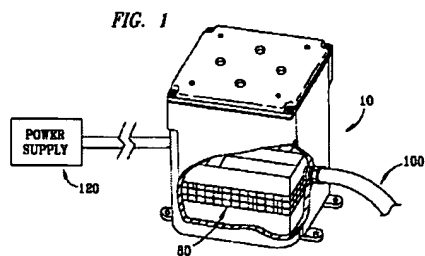
intended use of the power socket, intended use has been continuously held not to be germane to determining the patentability of the apparatus, *In re Finsterwalder*, 168 USPQ 530.



Art Unit: 1744

6. Claims 1, 2, 4, 5, 11-13, 16, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Calino (US 6,032,930).

Calino discloses an apparatus having an enclosure **10** adapted to contain a vaporizing device, an inlet **42** to allow air to pass into the enclosure, an outlet **23** to allow air to pass out of



the enclosure, and a fan **60** to pass the air from the inlet to the outlet. The outlet of Calino includes a flexible hose **100**. The enclosure further includes a door **40** having an inlet **42** therein. The fan **60** has an intake area adjacent

the inlet. See Figure 3. A wall of the enclosure is provided with a power socket wherein supply **120** enters. As to the intended use of the power socket, intended use has been continuously held not to be germane to determining the patentability of the apparatus, *In re Finsterwalder*, 168 USPQ 530.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 1744

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 5, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harper.

With respect to claim 5, while the door **30** of Harper is not disclosed to have an opening therein, it is not deemed inventive to do so since doing so would have merely increased the ventilation through the enclosure.

As to claims 14 and 15, the enclosure of Harper is suitable for the dispensing of a variety of volatiles, such as mosquito coils and candles and one of ordinary skill in the art would have found it obvious to use the enclosure of Harper for dispensing these volatiles.

10. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calino.

The enclosure of Calino is suitable for the dispensing of a variety of volatiles, such as mosquito coils and candles and one of ordinary skill in the art would have found it obvious to use the enclosure of Calino for dispensing these volatiles.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Calino in view of Watson et al. (US 5,833,929).

Calino does not disclose that the hose **100** includes a plurality of perforations. Watson et al., however, discloses a volatile dispenser for an automobile, like that of Calino, wherein a hose **34** is connected to the volatile dispenser and wherein the hose includes a plurality of perforations. See nozzle **38**, Figure 4. As these perforations assist in dispersing the volatile, it would have been an obvious modification to the hose of Calino.

Art Unit: 1744

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Harper or Calino, both in view of Clark (US 5,141,706).

Neither Harper nor Calino disclose if a shroud is around the fan. Regardless, Clark evidences that the use of a shroud 42' around a fan is a common arrangement both for protection of the fan blades and for guiding the air flow. For these reasons, it would have been obvious to provide a shroud around the fans of Harper or Calino.

Allowable Subject Matter

13. Claims 18 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

14. Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. The following is a statement of reasons for the indication of allowable subject matter:

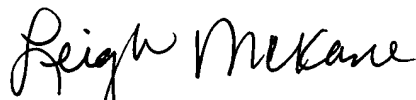
With respect to claim 10, neither Harper nor Calino disclose a fan enclosure including a tapering enclosed portion which tapers towards an outlet in the wall of the apparatus. As to claims 18 and 19, both Harper and Calino fail to teach or suggest an outlet of the enclosure which is associated with a venturi.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh McKane whose telephone number is 571-272-1275. The examiner can normally be reached on Monday-Friday (5:30 am-2:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Leigh McKane
Primary Examiner
Art Unit 1744

elm
7 January 2007